

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

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**Case: BA 2004174**                      Variance

Hearing Date:                              May 11, 2005

Agenda Item:                                16

Supervisory District:                      3

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**Applicant/Owner:**                      Dan & Nicki Payne

**Request:**                                      **Variances to permit:**

1) A proposed hillside disturbance of 32.7% where 15% is the maximum hillside disturbance allowed; and

2) A proposed single-family residence height of 31.5 feet where 30 feet is the maximum allowed in the Rural-43 zoning district.

**These variances are requested from the following Zoning Ordinance Section(s):**

- 1) Section 1201, Article 1201.6.1
- 2) Section 503, Article 503.3

**Site Location:**                              26017 W. Quartz Rock Road – Central Avenue and Jomax Road (Phoenix area)

**Site Size:**                                      54,412-square feet (1.25 acres)

**Existing Zoning:**                              Rural-43

**Current Use:**                                      Residential

**Citizen Support/Opposition:**              Two letters of opposition

**Staff Recommendation:**                      **Deny**

## Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43  
North: Rural-43  
South: Rural-43  
East: Rural-43  
West: Rural-43

## Existing On-Site and Surrounding Land Use:

2. On-site: Vacant  
North: Vacant  
South: Quartz Rock Road then vacant  
East: Single-family residence  
West: Single-family residence

## Background:

3. **March 8, 1996:** The applicant took ownership of the 2.5-acre parent parcel (210-13-025) under Joint tenancy deed number (**96-0159305**).
4. **October 8, 1997:** A building permit (**199701629-00**) was approved for the construction of a single-family residence on the 2.5-acre parent parcel (210-13.025).
5. **August 9, 2004:** The parent parcel (210-13-025) was split by the applicant, creating two separate 1.25-acre parcels, 210-13-025A and 025B (the subject site).
6. **July 7, 2004:** Two separate building permits were applied for on the subject site, **B200408274** for a single-family residence, and **B200408275** for a 300 linear foot retaining wall.
7. **November 5, 2004:** The subject variance case (BA2004174) was applied for by the applicant.

## Findings:

8. **Maricopa County Department of Transportation:** No response at the time this report was written.
9. **Flood Control District:** No objection to the request (See attached memo).
10. **Environmental Services Department:** No objection to the request (See attached memo).

11. **City of Phoenix:** No comments regarding this case (see attached memo).

### **Site Analysis:**

12. The subject site is located on the north side of Quartz Rock Road, approximately ½-mile south of Jomax Road and ¼-mile west of Central Avenue in the Phoenix area. The subject site is a rectangular shaped lot measuring 162.25 feet in width and 335.35 feet in depth. The site encompasses approximately 54,412-square feet or 1.25-acres. Access to the site is provided directly from Quartz Rock Road via a 33-foot wide half width roadway easement, which is also a patent easement, located along the southern property boundary of the subject site.
13. The subject site was originally part of a 2.5-acre parent parcel that was split by the applicant in 2004. Currently the 1.25-acres subject site is vacant and is vegetated with native shrubs, trees and cactus. There is a wash that crosses the western portion of the site and forms a semi-circle that crosses the property from the north to the south, entering the site from the northwest, running south and then exiting the site in the southwestern portion of the site. The entire site slopes from north to south creating a rolling, undulating appearance from the rear to the front of the property. Staff notes that 47% or 25,697-square feet of the 54,412-square foot subject site is designated as hillside, with a slope of 15% or greater over a five foot elevation change. The majority of the area designated as hillside is located generally towards the northern portion of the site as well as through the center of the site, corresponding with the wash located on the site.
14. The applicant is proposing to construct a 5,836-square foot, multi-level, single-family residence with an attached three-car garage and auto court located to the rear of the proposed residence. The proposed location of the residence is in the north-center portion of the subject site. The proposed residence is primarily located within an area on the parcel that is designated as hillside with the exception of a piece of the eastern side of the proposed residence and a small section of the proposed three-car garage and auto court. Access to the proposed residence would be from a 16 foot wide 250 foot long asphalt driveway that runs north from Quartz Rock Road along the eastern side of the site and would wrap around the eastern side of the single-family residence, opening up into an approximately 2,000-square foot brick auto court area and then entering the east-facing, rear-loaded, three-car garage. The applicant has proposed to locate the septic system for the residence on the southern portion or the front yard of the subject site.
15. The applicant is proposing to disturb 32.7% of the area on the property designated as hillside, where 15% is the maximum allowed. Staff notes that the proposed size of the single-family residence will create an overall lot coverage of 10.7%, where 15% is the maximum allowed in the Rural-43 zoning district.

16. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 (Zoning District)	Proposed Standard
Front Yard Setback	73-feet**	188-feet
Rear Yard Setback	40-feet	40-feet
Side Yard (east) Setback	30-feet	30-feet
Side Yard (west) Setback	30-feet	48-feet
Maximum Height	30-feet/2 stories	<b>31.5 feet/2 stories</b>
Minimum Lot Width	145-feet	162.25-feet
Lot Coverage	15%	10.7%
Minimum Lot Area	43,560-sq. ft.	54,412-sq. ft.
Percent of Hillside To Be Disturbed	15% (Of Hillside Area)	<b>32.7%</b> (Of 47% Area)

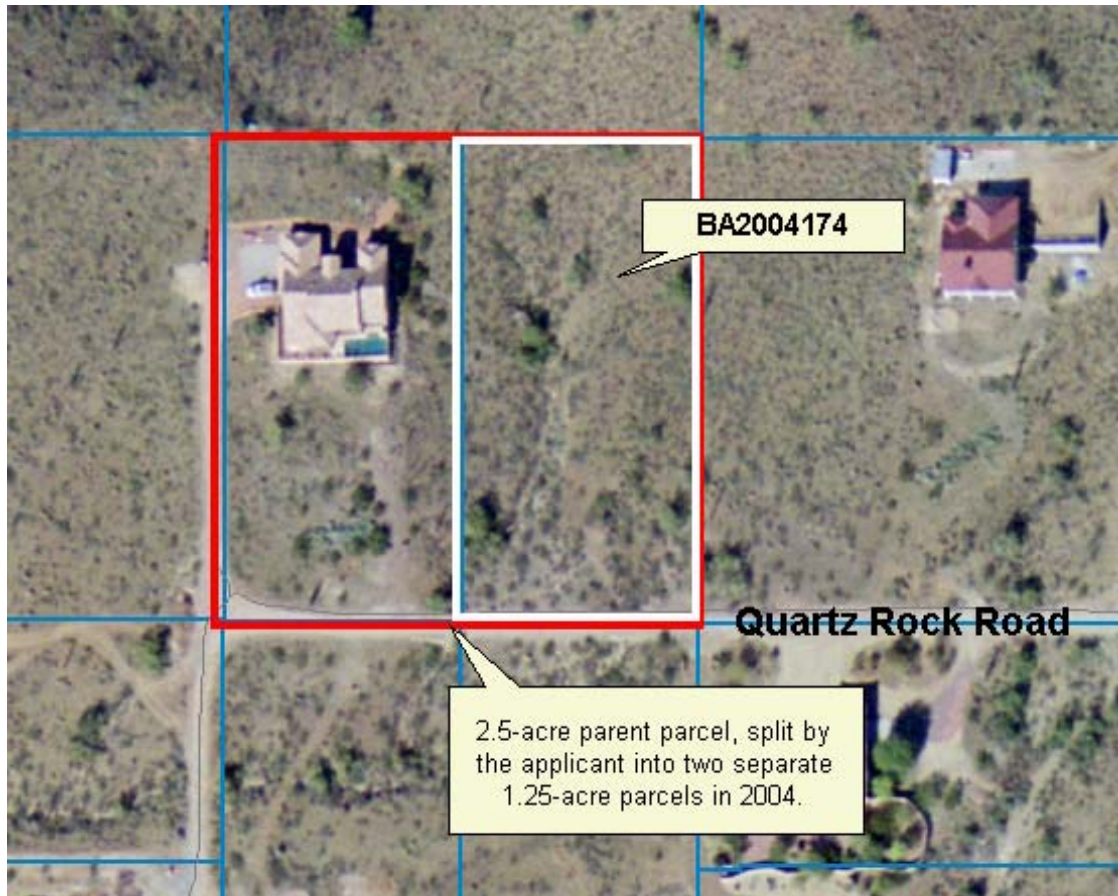
\*Standards indicated in **bold** do not meet minimum base zoning standards.

\*\*Includes a 33-foot patent easement.

## Land Use Analysis:

17. The subject property is located in an area that is zoned Rural-43. The *"Eye to the Future 2020"* General Plan indicates this area as lying within a Class I County Island within the City of Phoenix corporate boundary. The City of Phoenix General Plan designates this area as having a proposed density of 1 dwelling unit per acre, or as Parks/Open Space. The City of Phoenix has annexed to within 800 feet of the subject site to the south and 1,200 feet to the north. Large single-family residences on one-acre or larger lots characterize the surrounding area. This area is developing predominately through the lot-splitting process with the closest recorded subdivision approximately 1.25 miles to the southwest of the subject site. Additionally, staff notes that a branch of the CAP canal is located slightly over one mile to the west of the subject site.
18. Staff found evidence of six variance cases heard by the Board of Adjustment within  $\frac{3}{4}$  of a mile from the subject site. However, only two requests have relevance to the subject variance pertaining to hillside disturbance or maximum height allowance. A summary of the relevant cases are listed on the following page.

- Case **BA2003098** was a request for three separate variances to permit: 1) an existing single-family residence to setback 30 feet from the front (north) property line where 40 feet is the minimum required, 2) a proposed garage to setback 30 feet from the front (north) property line where 40 feet is the minimum required; and 3) an existing hillside disturbance of 20.5% where 15% is the maximum hillside disturbance permitted in the Rural-43 zoning district. All three requests were approved. Staff notes that this parcel is 73,028-square feet in area of which 6.54% of the total area of the parcel is considered to be hillside. This parcel is located at 26317 N. 7<sup>th</sup> Avenue, approximately ¼-mile southwest of the subject site.
- Case **BA2002032** was a request for a variance to permit a hillside disturbance of 41% where 15% is the maximum disturbance allowed in the Rural-43 zoning district. This request was approved. Staff notes that this parcel is triangular shaped, encompassing 54,494-square feet in area, of which 33% of the total area of the parcel is considered to be hillside. This parcel is located at 29 West Briles Road, approximately ¼-mile to the east of the subject site.



Aerial photograph of subject site and surrounding area.

## Plan Analysis:

19. This is a request for two separate variances on the subject site to allow for hillside disturbance and maximum building height. The variance requests came about when the property owner applied for a building permit to construct a single-family residence on the vacant subject site. Staff noted that there were slopes on the site that were 15% or greater and informed the property owner that a variance would be required.
20. The first request is to permit a proposed hillside disturbance of 32.7% where 15% is the maximum allowed in the Rural-43 zoning district. The applicant is proposing to construct a 5,836-square foot, multi-level, single-family residence with an attached three-car garage. The proposed location of the residence is in the north-center portion of the subject site. Staff notes that the majority of the proposed residence is located within an area on the parcel that is designated as hillside. The northern portion of the site is the highest point on the parcel, the majority of the southern half of the property is not designated as hillside with the exception of the wash that crosses the southwestern portion of the property. The southern half of the parcel could possibly provide a viable alternative location for the proposed single-family residence and reduce the amount of proposed hillside disturbance.
21. Staff notes that there are topographical hardships associated with the subject site in the form of a wash and only 47% of the parcel being designated as hillside. The applicant states that the location of the proposed residence is due to the desire to be in alignment with the existing residence directly to the west of the subject site. However, staff feels that there are alternative locations available that would reduce the amount of hillside distance, such as relocating the residence further to the south or reducing the size of the pad for the proposed residence or by reducing the size of the proposed auto court.
22. Additionally, the need for variance request #1 was self-created when the property owner obtained a building permit to construct a single-family residence on the original 2.5-acre parent parcel (210-13-025) and then split the parent parcel into two separate 1.25-acre parcels (210-13-025A and 025B, the subject site). This action created the need for more strenuous hillside disturbance standards for the subject site based on a 1.25-acre parcel rather than a 2.5-acre parcel. Staff notes that due to the lot split by the property owner, there is now the possibility of parcel 210-13-025A exceeding the allowable amount of hillside disturbance, for which the property owner has previously obtained a building permit based on a 2.5-acre parcel. Staff is recommending denial of variance request #1.
23. The second variance request is to allow a proposed single-family residence height of 31.5 feet where 30 feet is the maximum allowed. The portion of the residence that

exceeds the maximum allowable height is the front portion of the residence which is located within the middle of the wash located on the site and which is also designated as hillside. Staff notes that there is the topographical hardship of the wash on the site. However, it appears that this request could be eliminated by either reducing the height of the residence by 1.5 feet or possibly relocating the residence. Staff is recommending denial of variance request #2.

24. The subject site is impacted by the topographical hardship of an existing wash that crosses the central portion of the site. The subject site has 25,697-square feet of designated hillside on the property representing 47% of the total site. However, staff believes that the amount of disturbance requested, at 32.7%, is excessive, due to factors such as the size and location of the residence combined with the size of the proposed auto court located to the rear of the proposed residence. Additionally, the need for the variance request has been self-created by the property owner who split the 2.5-acre parent parcel into two 1.25-acre parcels in 2004. Staff feels that the requests do not reasonably fit the constraints of the subject site and is therefore recommending denial of both variance requests.

**Recommendation:** (BA 2004174)

25. Staff recommends **denial** of these variance requests based on the following:
- There are possible alternatives available that could minimize or eliminate the need for these variance requests.
  - The need for the variance requests is self-created by the property owner.
  - Granting these requests may confer a special privilege upon the applicant.
  - These requests conflict with the intent of the Zoning Ordinance and may have a negative impact on surrounding properties.
26. If the Board finds that a reasonable use of the property cannot be made without these variances, then these requests may be approved, subject to the following stipulations:
- a) General compliance with the site plan stamped received March 2, 2005.
  - b) The applicant shall obtain all necessary permits within 120 days of Board approval.

nlw

**Attachments:** Case Map BA 2004174

Zoning Map  
Assessor Map  
Site Plan  
Cross sections  
Application  
Supplemental Questionnaire  
Flood Control Memo (1 page)  
Environmental Services Memo (1 page)  
Letter of opposition (2 pages)  
Letter of opposition (1 page)  
City of Phoenix Letter (1 page)  
Photographs (2 pages)